

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Attorney Docket No.: **Google-54 (GP-064-06-US)**

Appl. No.: **10/634,501**

Confirmation No.: **8674**

Applicants: **Darrell ANDERSON, et al.**

Filed: **August 5, 2003**

Title: **SERVING CONTENT-RELEVANT ADVERTISEMENTS WITH CLIENT-
SIDE DEVICE SUPPORT**

TC/A.U.: **2156**

Examiner: **Sana A. Al Hashemi**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT
TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705**

The applicants respectfully request reconsideration of the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b), mailed with the Notice of Allowance and Fee(s) Due, on August 11, 2010.

Timing

This request is being filed no later than the payment of the issue fee.

Applicable Fee(s)

The U.S. Patent & Trademark Office ("the US PTO") is authorized to charge the fee under 37 C.F.R. § 1.18(e) of **\$200.00**, and any other fee due for consideration of this filing, to the deposit account of ***Straub & Pokotylo***, Deposit Account No. **50-1049**.

Statement of Facts

The patent term adjustment calculated by the US PTO is as follows:

Patent Term Adjustment			
Filing or 371(c) Date:	08-05-2003	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	705
A Delays:	705	PTO Manual Adjustments:	0
B Delays:	0	Applicant Delays:	965
C Delays:	0	Total PTA Adjustments:	0

Patent Term Adjustment History

Explanation Of Calculations

Number	Date	Contents Description	PTO(Days)	APPL(Days)	Start
119	08-11-2010	Mail Notice of Allowance			0
118	08-10-2010	Document Verification			0
117	08-10-2010	Issue Revision Completed			0
116	08-10-2010	Notice of Allowance Data Verification Completed			0
115	08-04-2010	Notice of Allowability			0
112	07-28-2010	Information Disclosure Statement considered			0
111	07-28-2010	Reference capture on IDS			0
110	07-28-2010	Information Disclosure Statement (IDS) Filed			0

109	07-28-2010	Request for Continued Examination (RCE)		0
108	07-31-2010	Disposal for a RCE / CPA / R129		0
107	07-28-2010	Information Disclosure Statement (IDS) Filed		0
106	07-28-2010	Workflow - Request for RCE - Begin		0
105	06-16-2010	Finished Initial Data Capture		0
104	05-04-2010	Export to Initial Data Capture		0
103	04-29-2010	Mail Notice of Allowance		0
102	04-28-2010	Issue Revision Completed		0
101	04-17-2010	Notice of Allowance Data Verification Completed		0
100	04-17-2010	Case Docketed to Examiner in GAU		0
99	04-17-2010	Document Verification		0
98	04-17-2010	Allowed Case Returned to the Examiner for Clerical Processing		0
97	04-12-2010	Notice of Allowability		0
94	04-09-2010	Date Forwarded to Examiner		0
93	03-09-2010	Response after Non-Final Action	28	91
92	03-09-2010	Request for Extension of Time - Granted		0
91	11-09-2009	Mail Non-Final Rejection		0
90	11-03-2009	Non-Final Rejection		0
89	10-21-2009	Information Disclosure Statement considered		0
88	10-21-2009	Reference capture on IDS		0
87	10-21-2009	Information Disclosure Statement (IDS) Filed		0
86	10-23-2009	Date Forwarded to Examiner		0
85	10-20-2009	Amendment Submitted/Entered with Filing of CPA/RCE		0
84	10-23-2009	Date Forwarded to Examiner		0
83	10-20-2009	Request for Continued Examination (RCE)	92	73
82	10-23-2009	Disposal for a RCE / CPA / R129		0
76	10-20-2009	Request for Extension of Time - Granted		0
75	10-21-2009	Information Disclosure Statement (IDS) Filed		0
74	10-20-2009	Workflow - Request for RCE - Begin		0
73	04-20-2009	Mail Final Rejection (PTOL - 326)	212	67
72	04-17-2009	Final Rejection		0
70	09-03-2008	Information Disclosure Statement (IDS) Filed	106	67
69	03-31-2009	Case Docketed to Examiner in GAU		0

68	02-26-2009	Date Forwarded to Examiner	0
67	05-20-2008	Response after Non-Final Action	645 37
66	05-20-2008	Request for Extension of Time - Granted	0
65	02-27-2009	Mail Notice of Rescinded Abandonment	0
64	02-26-2009	Notice of Rescinded Abandonment in TCs	0
63	12-02-2008	Mail Miscellaneous Communication to Applicant	0
62	12-01-2008	Miscellaneous Communication to Applicant - No Action Count	0
61	09-03-2008	Information Disclosure Statement considered	0
60	11-20-2008	Correspondence Address Change	0
59	10-07-2008	Correspondence Address Change	0
58	09-03-2008	Information Disclosure Statement (IDS) Filed	0
57	08-20-2008	Case Docketed to Examiner in GAU	0
56	06-09-2008	Mail-Petition to Revive Application - Granted	0
55	06-09-2008	Petition to Revive Application - Granted	0
54	05-20-2008	Petition Entered	0
53	04-15-2008	Information Disclosure Statement (IDS) Filed	0
52	02-11-2008	Reference capture on IDS	0
51	02-11-2008	Information Disclosure Statement (IDS) Filed	0
50	05-07-2008	Mail Abandonment for Failure to Respond to Office Action	0
49	05-06-2008	Aband. for Failure to Respond to O. A.	0
48	04-15-2008	Information Disclosure Statement (IDS) Filed	0
47	03-11-2008	Case Docketed to Examiner in GAU	0
45	02-11-2008	Information Disclosure Statement (IDS) Filed	0
44	07-16-2007	Reference capture on IDS	0
43	07-16-2007	Information Disclosure Statement (IDS) Filed	0
42	07-16-2007	Information Disclosure Statement (IDS) Filed	0
41	02-09-2007	Mail Examiner Interview Summary (PTOL - 413)	0
40	02-05-2007	Examiner Interview Summary Record (PTOL - 413)	0
39	10-30-2006	Mail Notice of Informal or Non-Responsive Amendment	0

38	08-23-2006	Date Forwarded to Examiner		0
37.1	08-14-2006	Informal or Non-Responsive Amendment after Examiner Action		0
37	08-14-2006	Response after Non-Final Action		0
36	08-14-2006	Request for Extension of Time - Granted		0
35	08-15-2006	Mail Examiner Interview Summary (PTOL - 413)		0
34	08-08-2006	Examiner Interview Summary Record (PTOL - 413)		0
33	06-27-2006	Case Docketed to Examiner in GAU		0
32	02-10-2006	Mail Non-Final Rejection	493	-1
31	11-23-2005	Information Disclosure Statement considered		0
30	07-18-2005	Information Disclosure Statement considered		0
29	02-28-2005	Information Disclosure Statement considered		0
28	11-23-2005	Reference capture on IDS		0
27.7	11-23-2005	Information Disclosure Statement (IDS) Filed		0
27	11-23-2005	Information Disclosure Statement (IDS) Filed		0
26	10-06-2005	Case Docketed to Examiner in GAU		0
25	07-18-2005	Reference capture on IDS		0
24.7	07-18-2005	Information Disclosure Statement (IDS) Filed		0
24	07-18-2005	Information Disclosure Statement (IDS) Filed		0
23	07-25-2005	Non-Final Rejection		0
21.7	02-28-2005	Information Disclosure Statement (IDS) Filed		0
21	02-28-2005	Information Disclosure Statement (IDS) Filed		0
20	11-11-2004	Correspondence Address Change		0
19	10-06-2004	Case Docketed to Examiner in GAU		0
18	09-15-2004	Case Docketed to Examiner in GAU		0
17	06-02-2004	IFW TSS Processing by Tech Center Complete		0
16	06-02-2004	Case Docketed to Examiner in GAU		0
15	05-18-2004	Application Return from OIPE		0
14	05-18-2004	Application Return TO OIPE		0
13	05-18-2004	Application Dispatched from OIPE		0
12	05-18-2004	Application Is Now Complete		0
11	05-07-2004	Payment of additional filing fee/Preexam	94	9

10	05-07-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant	0
9	11-03-2003	Notice Mailed--Application Incomplete--Filing Date Assigned	0
8	10-14-2003	Rescind Nonpublication Request for Pre Grant Publication	0
7	11-03-2003	Notice Mailed--Application Incomplete--Filing Date Assigned	0
6	08-05-2003	PGPubs nonPub Request	0
5	11-03-2003	Correspondence Address Change	0
4	10-22-2003	CASE CLASSIFIED BY OIPE	0
3	10-22-2003	Cleared by OIPE CSR	0
2	09-18-2003	IFW Scan & PACR Auto Security Review	0
1	08-05-2003	Initial Exam Team nn	0

In summary, the Non-Overlapping US PTO Delays were calculated to be 705 days, while the Applicant Delays were calculated to be 965.

The applicants respectfully submit that (1) the delay of 645 days attributed to the applicants in line number 67 (May 20, 2008 - Response after Non-Final Action) and (2) the delay of 212 days attributed to the US PTO in line number 73 (April 20, 2009 - Mail Final Rejection (PTOL-326)) were improperly determined. In accordance with 37 C.F.R. §§ 1.702 and 1.703:

(1) the delay of 645 days attributed to the applicants in line number 67 (May 20, 2008 - Response after Non-Final Action) should be reduced to 0 days because the filing on May 20, 2008 was not a response to a non-final action, but rather a Petition to Withdraw a Holding of Abandonment ***which included a copy of a response filed on August 10, 2006***; and

(2) the delay of 212 days attributed to the US PTO in line number 73 (April 10, 2009 - Mail Final Rejection (PTOL-326)) should be increased to 861 days in accordance with 37 C.F.R. § 1.703 (a)(3).

More specifically, in response to a fully responsive amendment filed on August 10, 2006, the US PTO mailed a Notice of Informal or Non-Responsive Amendment (later vacated) on October 30, 2006. However, during a telephone interview between the undersigned and Examiner Samuel Rimell on February 5, 2007, the undersigned explained how the response filed on August 10, 2006 was, in fact, fully responsive. Examiner Rimell agreed. In an Examiner Interview Summary Record (PTOL - 413) mailed on February 9, 2007, the Examiner stated "Examiner agreed to **vacate** notice of informality of 10/30/06. **Office action on the merits will be forthcoming.** [Emphasis added.]"

However, instead of the indicated Office Action, on May 7, 2008 (about 15 months following the Examiner Interview Summary Record), the US PTO mailed a Notice of Abandonment for Failure to Respond to Office Action. The applicants promptly filed a Petition to Withdraw the Holding of Abandonment on May 20, 2008. (This time period of 13 days is within the two month period set forth in 37 C.F.R. § 1.704(c)(4).) That petition was granted on June 9, 2008. Ultimately, a final Office Action was mailed on April 20, 2009 (over 26 months following the Examiner Interview Summary Record which

indicated that an "Office action on the merits will be forthcoming.").

In view of the foregoing, the delay of 645 days attributed to the applicant in line number 67 (May 20, 2008 - Response after Non-Final Action) should be reduced to 0 days because the filing on May 20, 2008 was not a response to a non-final action, but a Petition to Withdraw a Holding of Abandonment, ***which included a copy of a response filed on August 10, 2006.***

Further, the delay of 212 days attributed to the US PTO in item 73 (April 20, 2009 - Mail Final Rejection (PTOL-326)) should be increased to 861 days in accordance with 37 C.F.R. § 1.703 (a)(3). More specifically, 37 C.F.R. § 1.703(a)(3) states that the term adjustment includes:

The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

In this instance, "the date that is four months after the date" of the August 10, 2006 reply is December 11, 2006. The number of days between December 11, 2006 and the mailing of the final Office Action on April 20, 2009 is 861 days.

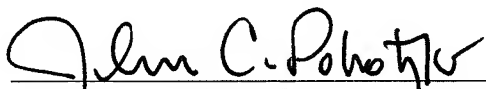
In view of the foregoing, the applicants request that: (1) the determined 965 days of Applicant delays be reduced by 645 days, resulting in 320 days; and (2) the determined 705 days of US PTO delays be increased by 861 days, resulting in 1566 days. Therefore, the term of this patent should be extended 1246 days (1566 less 320) and the applicants respectfully request such an extension. In the alternative, the applicants request any extension determined in accordance with the appropriate rules to the extent such a determination differs from the requested extension of 1246 days.

The patent is not subject to a terminal disclaimer.

Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application are already accounted for in the net applicant delays of 320 days.

Respectfully submitted,

November 10, 2010



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